

Case No. 14-9510  
UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

*syld*  
In Re: Stephen Thomas Yelverton )

Respondent )

Notice to Show Cause )

PRAECIPE TO RESPONSE TO NOTICE TO SHOW CAUSE

Stephen Thomas Yelverton, Pro Se  
601 Pennsylvania Ave., N.W.  
Suite 900 South  
Washington, DC 20004  
Tel. 202-702-6708  
Fax 202-403-3801  
[styelv@aol.com](mailto:styelv@aol.com)

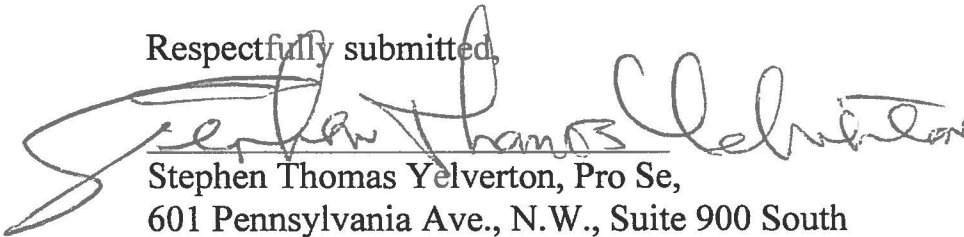
PRAECIPE TO RESPONSE TO NOTICE TO SHOW CAUSE

COMES NOW, Respondent Stephen Thomas Yelverton, Pro Se, and hereby submits this Praecipe to Response to the Notice to Show Cause. Submitted herewith is an Order from the U.S. Court of Appeals for the District of Columbia Circuit, entered May 5, 2014, denying the Respondent's Petition for Re-Hearing En Banc. Attached also is the Respondent's Motion for Stay of Mandate, filed May 9, 2014.

. WHEREFORE, in view of the foregoing, this Praecipe is submitted.

This the 9th day of May, 2014,

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen Thomas Yelverton", is written over a horizontal line.

Stephen Thomas Yelverton, Pro Se,  
601 Pennsylvania Ave., N.W., Suite 900 South  
Washington, DC 20004  
Tel. 202-702-6708  
Fax 202-403-3801  
[styelv@aol.com](mailto:styelv@aol.com)

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 13-8520**

**September Term, 2013**

**Filed On: May 5, 2014**

In re: Stephen Thomas Yelverton,

Respondent

**BEFORE:** Garland, Chief Judge, and Henderson, Rogers, Tatel, Brown,  
Griffith, Kavanaugh, Srinivasan, Millett, Pillard, and Wilkins,  
Circuit Judges

**ORDER**

Upon consideration of the petition for rehearing en banc, which has been construed as a motion for reconsideration en banc, and the absence of a request by any member of the court for a vote, it is

**ORDERED** that the motion be denied.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Timothy A. Ralls

Deputy Clerk

Case No. 13-8520  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

In Re: Stephen Thomas Yelverton     )  
   )  
Respondent                                     )  
   )  
Order to Show Cause                         )

MOTION TO STAY MANDATE

Stephen Thomas Yelverton, Pro Se  
D.C. Circuit Bar No. 22300  
601 Pennsylvania Ave., N.W.  
Suite 900 South  
Washington, DC 20004  
Tel. 202-702-6708  
Fax 202-403-3801  
[styelv@aol.com](mailto:styelv@aol.com)

### MOTION TO STAY MANDATE

COMES NOW, Respondent Stephen Thomas Yelverton, Pro Se, pursuant to the Federal Rules of Appellate Procedure, Rule 41, and D.C. Circuit Rule 41, and hereby submits his Motion to Stay Mandate, with respect to this proceeding and the Per Curiam Order, En Banc, entered on May 5, 2014, which acted upon his Petition for Rehearing En Banc of the Order of Suspension, entered on February 19, 2014. The Per Curiam Order is in violation of 28 U.S.C. 47, and the following is shown.

#### Statement of the Facts

1. Respondent Yelverton was a party in Case No. 1:11-mc-00669-UNA before then U.S. District Court Judge Robert L. Wilkins. In Order, entered on December 8, 2011, Judge Wilkins ruled that the Removal of the Bar Disciplinary proceeding to the Federal Court must be Remanded to the D.C. Court of Appeals.

2. The issue before then District Judge Wilkins was “deference by the Federal Courts to the Bar Disciplinary proceedings of the D.C. Court of Appeals.”

3. Judge Wilkins, as a member of the U.S. Court of Appeals for the District of Columbia Circuit, sat on the En Banc Panel in the Per Curiam Order, entered on May 5, 2014, and participated in this decision.

4. The Per Curiam Order is with respect to the same Bar Disciplinary proceeding as in Case No. 1:11-mc-00669-UNA, and is respect to the same party as in this proceeding and in this Order.

5. The issue before now Circuit Judge Wilkins in the Per Curiam Order is the same issue of “deference by the Federal Courts to the Bar Disciplinary proceedings of the D.C. Court of Appeals.”

There is “Good Cause” for Stay of the Mandate

6. The “bedrock principle of a hierarchal judiciary, that ‘no Judge shall hear or determine an appeal from the decision of a case or issue tried by him,’ is embedded in 28 U.S.C. 47,” and which must be substantively applied. Clemmons v. Wolfe, 377 F.3d 322, 325 (3<sup>rd</sup> Cir. 2004).

7. Under 28 U.S.C. 47, a “Federal Judge may not adjudicate the appeal of an issue or case which he tried as a lower court Judge, because a reasonable person might doubt the impartiality of a Judge in such a position.” Rice v. McKenzie, 581 F.2d 1114, 1117 (4<sup>th</sup> Cir. 1978).

8. In such circumstances, the Federal Judge should have acted to Recuse himself under 28 U.S.C. 455 (a), where actual Bias is not a requisite element, but where the “appearance of Bias still could diminish the stature of the Judiciary,” and so the “public’s confidence in the Judiciary requires that Justice must satisfy the appearance of Justice.” Clemmons, id., at 326-328.



9. Under 28 U.S.C. 47, the Circuit Judge must be disqualified when he has tried or heard “any question,” which is the duty of the Circuit Court of Appeals to consider and pass upon, that was before the Circuit Court Judge as a District Judge. Swann v. Charlotte-Mecklenburg Board of Education, 431 F.2d 135, 136-137 (4<sup>th</sup> Cir. 1970), citing to Moran v. Dillingham, 174 U.S. 153 (1899), where disqualification is required that “involves in any degree” the same matter that was before the Judge in the District Court.

10. Both in Case No. 1:11-mc-00669-UNA and in the Per Curiam Order, Judge Wilkins heard and passed upon the same question or issue of “deference by the Federal Courts to the Bar Disciplinary proceedings of the D.C. Court of Appeals,” which is respect to the same Bar Disciplinary proceeding and the same party.

11. That “the parties may have consented to the Judge’s participation, can make no difference.” Swann, id., at 136.

12. Accordingly, the Mandate must be Stayed in this proceeding because of the violation of 28 U.S.C. 47 by Judge Wilkins. William Cramp & Sons v. International Curtis Marine, 228 U.S. 645 (1913), where there is a violation of 28 U.S.C. 47, the Circuit Court is not organized in conformity with law, and therefore the underlying decision is not lawful, and thus not competent to be heard by the U.S. Supreme Court on Certiorari.

Conclusions

WHEREFORE, in view of the foregoing, "good cause" is shown for Stay of the Mandate in this proceeding in view of violation of 28 U.S.C. 47.

This the 9th day of May, 2014,

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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Stephen Thomas Yelverton, Pro Se,  
D.C. Circuit Bar No. 22300  
601 Pennsylvania Ave., N.W., Suite 900 South  
Washington, DC 20004  
Tel. 202-702-6708 Fax 202-403-3801  
[styelv@aol.com](mailto:styelv@aol.com)

CERTIFICATE OF SERVICE

I, Stephen Thomas Yelverton, Pro Se, hereby certify that a copy of this Motion to Stay Mandate was served by U.S. Mail, on May 9, 2014, or by Hand Delivery, to the following interested non-parties:

Julio A. Castillo, Esq., Clerk  
D.C. Court of Appeals  
430 E St., N.W., #209  
Washington, DC 20001

Elizabeth J. Branda, Esq., Executive Attorney  
Board of Professional Responsibility  
430 E St., N.W., Room 138  
Washington, DC 20001

Hamilton P. Fox, III, Esq., Office of Bar Counsel  
515 Fifth St., N.W., Suite 117  
Washington, DC 20001

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Stephen Thomas Yelverton, Pro Se  
D.C. Circuit Bar No. 22300

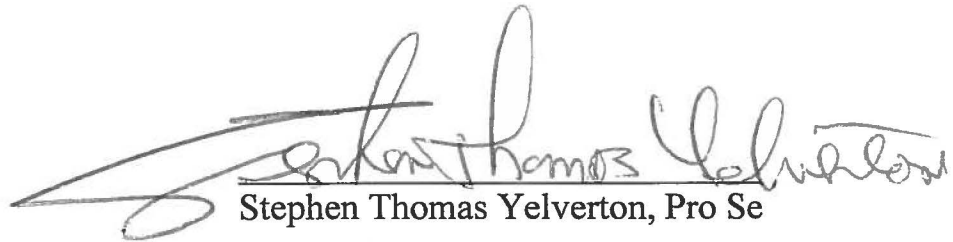


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D.C. Court of Appeals  
430 E St., N.W., #209  
Washington, DC 20001

Mark Langer, Esq., Clerk  
D.C. Circuit Court of Appeals  
U.S. Courthouse, Room 5205  
333 Constitution Ave., N.W.  
Washington, DC 20001



Stephen Thomas Yelverton, Pro Se